

AMENDED IN ASSEMBLY JUNE 26, 2003

**SENATE BILL**

**No. 850**

**Introduced by Senator ~~Ortiz~~ Burton**

February 21, 2003

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~~An act to amend Section 12957 of the Insurance Code, relating to the Insurance Commissioner. An act to amend Sections 8803, 8805, 8806, 8808, 8809, 8810, and 8811 of the Elections Code, relating to elections.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 850, as amended, ~~Ortiz~~ Burton. ~~The Insurance Commissioner~~  
*General election ballot vacancy: legislative office: appointment.*

*Existing law permits, in the case of a legislative office, a vacancy on the general election ballot caused by the death of the nominee to be filled by appointment by the county central committee or committees of the party in which the vacancy occurs of the legislative district of the deceased candidate. It allows the vacancy on the general election ballot to be filled only if the elections official has ascertained a candidate's death a certain number of days before the ensuing general election.*

*This bill, in the case of a legislative office, would permit a vacancy on the general election ballot caused by the death or disqualification of the nominee to be filled by appointment by the Speaker of the Assembly or the Minority Leader of the Assembly, as specified, or by the President Pro Tempore of the Senate or the Minority Leader of the Senate, as specified. It would permit the applicable county central committees to fill the vacancy by appointment only if the vacancy cannot be filled pursuant to the above procedure. It would require the elections official, in addition, to ascertain if a candidate is unqualified to seek an office a certain number of days before the ensuing general election. By*

adding to the duties of local elections officials this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

~~Existing law provides that the various types of policy forms or certificates used by insurers must be filed with and approved by the Insurance Commissioner, as specified. Existing law provides that the commissioner may not withdraw a policy approval except upon grounds as, in his or her opinion, would authorize disapproval upon original submission, as specified.~~

~~This bill would provide that the commissioner may also disapprove, deny, or disallow a policy form or certificate, policy change, or policy exclusion filed with the department by an insurer, or withdraw any previous approval thereof, if certain conditions are met, as specified. The order issued by the commissioner disapproving or withdrawing previous approval would be required to state the grounds therefor. This bill would also authorize the commissioner to adopt regulations to implement these provisions.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes. State-mandated local program: ~~no~~ yes.

*The people of the State of California do enact as follows:*

- 1 ~~SECTION 1. Section 12957 of the Insurance Code is~~
- 2 *SECTION 1. Section 8803 of the Elections Code is amended*
- 3 *to read:*
- 4 8803. ~~No~~ A vacancy on the ballot for a general election ~~shall~~
- 5 *may not* be filled except if the candidate dies *or is determined to*
- 6 *be unqualified to seek that office* and that fact has been ascertained
- 7 by the officer charged with the duty of printing the ballots at least
- 8 68 days before the date of the next ensuing general election.

1     SEC. 2. *Section 8805 of the Elections Code is amended to*  
2 *read:*

3     8805. Whenever a candidate for nomination for a partisan  
4 office at a primary election dies *or is determined to be unqualified*  
5 *to seek that office* on or before the day of the election, and a  
6 sufficient number of ballots are marked as being voted for him or  
7 her to entitle him or her to nomination if he or she had lived until  
8 after the election, a vacancy exists on the general election ballot,  
9 which shall be filled in the manner provided in Section 8806 for  
10 filling a vacancy caused by the death *or disqualification* of a  
11 candidate.

12     SEC. 3. *Section 8806 of the Elections Code is amended to*  
13 *read:*

14     8806. (a) Vacancies permitted to be filled may, in the case of  
15 legislative offices, be filled by ~~the~~:

16     (1) *The Speaker of the Assembly if the office sought is a Member*  
17 *of the Assembly and the Speaker of the Assembly is a member of*  
18 *the same political party as the candidate whose death or*  
19 *disqualification caused the vacancy.*

20     (2) *The Minority Leader of the Assembly if the office sought is*  
21 *a Member of the Assembly and the Minority Leader of the*  
22 *Assembly is a member of the same political party as the candidate*  
23 *whose death or disqualification caused the vacancy.*

24     (3) *The President Pro Tempore of the Senate if the office sought*  
25 *is a Member of the Senate and the President Pro Tempore of the*  
26 *Senate is a member of the same political party as the candidate*  
27 *whose death or disqualification caused the vacancy.*

28     (4) *The Minority Leader of the Senate if the office sought is a*  
29 *Member of the Senate and the Minority Leader of the Senate is a*  
30 *member of the same political party as the candidate whose death*  
31 *or disqualification caused the vacancy.*

32     (5) *The county central committee or committees of the party in*  
33 *which the vacancy occurs, in the county or counties comprising the*  
34 *legislative district of the deceased or disqualified candidate if the*  
35 *vacancy cannot be filled pursuant to sub-paragraphs (1), (2), (3),*  
36 *or (4).* ~~In~~

37     (b) *In the case of all other district or state offices requiring party*  
38 *nomination, except congressional offices, the vacancies may be*  
39 *filled by the state central committee of the party.*

40     Vacancies

1 (c) *Vacancies* permitted to be filled may, in the case of  
2 congressional offices, be filled by those members of the state  
3 central committee of the party who reside in the congressional  
4 district in which the vacancy occurs, and who were registered to  
5 vote in that district at the time the vacancy occurred, acting  
6 together with the members of the county central committee or  
7 committees of the party residing in that congressional district.

8 **References**

9 (d) *References* in this section to state and county central  
10 committees shall be construed to refer to the newly elected or  
11 selected state and county central committees, unless the  
12 organizational meetings of those committees are held in January  
13 following the general election.

14 *SEC. 4. Section 8808 of the Elections Code is amended to*  
15 *read:*

16 8808. A vacancy authorized to be filled because of the death  
17 *or disqualification* of a candidate shall be filled, and the name of  
18 the person named to fill the vacancy shall be certified to the officer  
19 charged with the duty of printing the ballots, 68 days before the day  
20 of election.

21 *SEC. 5. Section 8809 of the Elections Code is amended to*  
22 *read:*

23 8809. Whenever a candidate has declared a candidacy for a  
24 primary election, the candidate's name shall be printed upon the  
25 ballot for the primary election, unless the candidate has died *or is*  
26 *determined to be unqualified to seek that office*, and that fact has  
27 been ascertained by the officer charged with the duty of printing  
28 the ballots, at least 68 days before the day of the election.

29 *SEC. 6. Section 8810 of the Elections Code is amended to*  
30 *read:*

31 8810. Whenever a candidate has been nominated at any  
32 primary election after having filed a declaration of candidacy, the  
33 name of the candidate shall be printed upon the ballot for the  
34 ensuing general election unless the candidate has died *or is*  
35 *determined to be unqualified to seek that office* and that fact has  
36 been ascertained by the officer charged with the duty of printing  
37 the ballots, at least 68 days before the day of election.

38 *SEC. 7. Section 8811 of the Elections Code is amended to*  
39 *read:*

8811. Whenever, upon the death *or disqualification* of any candidate, the vacancy created is filled by a party committee *or other person pursuant to Section 8806*, a certificate to that effect shall be filed with the officer with whom a declaration of candidacy for that office may be filed, and, upon payment of the filing fee applicable to the office, shall be accepted and acted upon by that officer as in the case of an original declaration certificate.

~~amended to read:~~

~~12957. (a) Except as provided in subdivision (b), the commissioner shall not withdraw approval of a policy theretofore approved by him or her except upon such grounds as, in his or her opinion, would warrant disapproval upon original submission thereof. The withdrawal shall be in writing and shall specify the ground thereof.~~

~~(b) The commissioner may also disapprove, deny, or disallow a policy form or certificate, policy change, or policy exclusion filed with the department by an insurer, or withdraw any previous approval thereof, if the policy form or certificate, policy change, or exclusion is any of the following:~~

~~(1) Violates or does not comply with the Insurance Code, or any rule relating to the Insurance Code duly adopted by the commissioner, or is otherwise contrary to law.~~

~~(2) Contains provisions or has any titles or headings which are unjust, encourage misinterpretation, are deceptive, or are violative of public policy.~~

~~(3) Is likely to contribute to a significant health risk or to a property being in an uninhabitable condition.~~

~~The commissioner's order disapproving any form or certificate, or any notice of the commissioner's intention to withdraw a previous approval, must state the grounds for the disapproval in enough detail to reasonably inform the filer of the grounds.~~

~~(c) If the insurer demands a hearing on the withdrawal, a hearing shall be granted and commenced within thirty days of filing of a written demand therefor with the commissioner. Unless a hearing is so commenced, the notice of withdrawal shall become ineffective upon the thirty-first day from and after the date of filing of the demand.~~

~~(d) The commissioner may adopt regulations as necessary to implement this section.~~

1     ~~(c) This section shall not apply to policies subject to the~~  
2     ~~provisions of subdivision (d) of Section 10291.5.~~

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